



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-285863

July 18, 2000

The Honorable Christopher S. Bond
Chairman
The Honorable John Kerry
Ranking Minority Member
Committee on Small Business
United States Senate

The Honorable Jim M. Talent
Chairman
The Honorable Nydia M. Velázquez
Ranking Minority Member
Committee on Small Business
House of Representatives

Subject: Small Business Administration: Small Business Size Standards; General Building Contractors, Heavy Construction, Except Building, Dredging and Surface Cleanup Activities, Special Trade Contractors, Garbage and Refuse Collection, Without Disposal, and Refuse Systems

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Small Business Administration (SBA), entitled "Small Business Size Standards; General Building Contractors, Heavy Construction, Except Building, Dredging and Surface Cleanup Activities, Special Trade Contractors, Garbage and Refuse Collection, Without Disposal, and Refuse Systems" (13 CFR Part 121). We received the rule on June 29, 2000. It was published in the Federal Register as a final rule on June 16, 2000. 65 Fed. Reg. 37689.

The final rule establishes new small business size standards for general building and heavy construction contractors, with certain exceptions. The increases in the size standards are designed to adjust for inflation since the original standards became effective.

Enclosed is our assessment of the SBA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SBA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Stanley Czerwinski, Associate Director, Housing and Community Development Issues. Mr. Czerwinski can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Michael D. Schattman
General Counsel
Small Business Administration

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SMALL BUSINESS ADMINISTRATION
ENTITLED

"SMALL BUSINESS SIZE STANDARDS; GENERAL BUILDING CONTRACTORS,
HEAVY CONSTRUCTION, EXCEPT BUILDING, DREDGING AND SURFACE
CLEANUP ACTIVITIES, SPECIAL TRADE CONTRACTORS, GARBAGE AND
REFUSE COLLECTION, WITHOUT DISPOSAL, AND REFUSE SYSTEMS"
(13 CFR PART 121)

(i) Cost-benefit analysis

SBA performed a cost-benefit analysis of the final rule and found that the benefits include an increase in the number of businesses eligible for small business set-aside contracts, the 8(a) Program, and the Small Disadvantaged Business and HUBZone Empowerment Contracting Programs.

Where the rule acts to decrease competition, such as where small businesses are not currently present or not bidding on federal contracts, it could cause an increase in government costs because of the decision to set-aside the contract or provide a price preference.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

SBA performed Initial and Final Regulatory Flexibility Analyses in connection with the issuance of the proposed and final rule, respectively. These analyses comply with the requirements of the Act, including a description of the entities to which the rule applies, the need for the rule, and a discussion of the costs and benefits of the rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On July 26, 1999, SBA issued a Notice of Proposed Rulemaking.

64 Fed. Reg. 40311. Forty-five comments were received and are responded to in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was issued under the authority of 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c), and 662(5) and section 304, Pub. L. 103-403, 108 Stat. 4175,4188.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action which complies with the requirements of the Order.